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FILED
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1983

Name ABEYTA JOSEPH A

(Last)

(First)

(Initial)

Prisoner Number CHY 429/03026633Institutional Address 885 N. SAN PEDRO STSAN JOSE CA 95110 SANTA CLARA CO. JAILUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIAJOSEPH ANTHONY ABEYTA

(Enter the full name of plaintiff in this action.)

vs.

SANTA CLARA COUNTY DEPT.
OF CORRECTIONS / SHERIFF DEPT. #2406
1) ANTHONY DURANTE CORRECTIONS OFFICER
2) SGT. CSABANYI #1594 SUPERVISING OFFICER
ALL IN INDIVIDUAL AND OFFICIAL CAPACITY

(Enter the full name of the defendant(s) in this action)

Case No. 07 4660 (PR)

(To be provided by the clerk of court)

COMPLAINT UNDER THE
CIVIL RIGHTS ACT,
42 U.S.C §§ 1983*[All questions on this complaint form must be answered in order for your action to proceed..]*I. Exhaustion of Administrative Remedies

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement SANTA CLARA CO. MAIN JAIL

B. Is there a grievance procedure in this institution?

YES (✓) NO ()

C. Did you present the facts in your complaint for review through the grievance procedure?

YES (✓) NO ()

D. If your answer is YES, list the appeal number and the date and result of the appeal at

THEY DO NOT HAVE APPEAL NUMBERS, BUT THEY KEEP
THEM ON THEIR FILES.

COMPLAINT

- 1 -

each level of review. If you did not pursue a certain level of appeal, explain why.

1. Informal appeal _____

2. First formal level _____

3. Second formal level _____

4. Third formal level _____

E. Is the last level to which you appealed the highest level of appeal available to you?

YES (✓) NO ()

F. If you did not present your claim for review through the grievance procedure, explain why. _____

II. Parties

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

JOSEPH ANTHONY ABEYTA

885 N. SAN PEDRO ST

SAN JOSE CA 95110

B. Write the full name of each defendant, his or her official position, and his or her place of employment.

① ANTHONY DURANTE CORRECTIONAL OFFICER # 2406 S.C.C. DEPT OF CORRECT.

② SEARGANT CSABANYI # 1594 SHERIFF SUPERVISOR FOR S.C.C. D.O.C.

1 OTHER OFFICERS FOLLOWED PROCEDURES THESE OFFICERS DID
 2 THEIR JOB ACCORDINGLY. ③ FETSCH #2608, ④ DURAN #2520
 3 ⑤ SOUZA # 2511, ⑥ AVILA #2504, ⑦ BARRON GABRIEL

4 III. Statement of Claim

5 State here as briefly as possible the facts of your case. Be sure to describe how each
 6 defendant is involved and to include dates, when possible. Do not give any legal arguments or cite any
 7 cases or statutes. If you have more than one claim, each claim should be set forth in a separate
 8 numbered paragraph.

9 BASICALLY I WAS ASSULTED BY CORRECTIONS OFFICER DURANTE #2406 BY
 10 BEING KICKED IN THE FACE AND HEAD WITH HIS WORK ISSUED BOOTS,
 11 SPRAYED IN THE EYES WITH PEPPER SPRAY, AND HIT (NINE PLUS TIMES)
 12 IN MY HEAD AND FACE ARE WHILE BLINDED AND RESTRAINED, SUFFERED
 13 LUMPS, BRUISES CUTS TO EYE WELTS (BY HIS DEPARTMENT ISSUED FLASH
 14 LIGHT) SEE VIDEO. SGT. CSABANYI #1594 THE SUPERVISING OFFICER
 15 FOR ALLOWING THIS CRIME TO TAKE PLACE UNDER HER SUPERVISION
 16 BREAKING FACILITY POLICIES, PROCEDURES.

22 IV. Relief

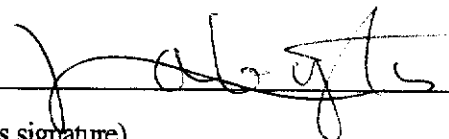
23 Your complaint cannot go forward unless you request specific relief. State briefly exactly what
 24 you want the court to do for you. Make no legal arguments; cite no cases or statutes.

25 "SUSPENSION/WITH NO PAY," "MONETARY COMPENSATION" FOR
 26 MY PAIN AND SUFFERING AND MY MENTAL AND EMOTIONAL DIST-
 27 RESS, "DISMISSAL FROM DUTIES".

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I declare under penalty of perjury that the foregoing is true and correct.

Signed this AUG. day of FRIDAY, 2007


(Plaintiff's signature)

1. VIOLATION OF EIGHTH AMENDMENT "CRUEL AND UNUSUAL PUNISHMENT."

2. VIOLATION OF FIFTH & FOURTEENTH AMENDMENT

DUE PROCESS VIOLATION...

3. SINCE NOT CONVICTED & CONVICTED ON DIFFERENT ACCOUNT.

4. PAY FOR PHYSICAL INJURY / PAIN & SUFFERING.

5. "PUNITIVE DAMAGES" HIS ACTS OF KICKING & HITTING ON ME

6. WITH FLASH LIGHT, MOTIVATED BY EVIL MOTIVE & INTENT.

7. VERY RECKLESS & CALLOUS INDIFFERENCE TO MY RIGHTS CIVIL

8. & EXCESSIVE FORCE

9. CAN SHOW SUCH RIGHT OF SUPERVISORS DISREGARD TO MY

10. PERSONAL SAFETY. IM "SURE" SHE HAS PRIORS.

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JS 44 - No. CALIF (Rev. 4/97)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO)

I. (a) PLAINTIFFS**JOSEPH ANTHONY ABEYTA**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

**SANTA CLARA COUNTY DEPT OF CORRECTIONS
AND SHERIFF DEPT.**
**ALL IN INDIVIDUAL AND
C/O ANTHONY DURANTE # 2406 OFFICIAL CAPACITY.**

SGT. SUPERVISOR CSABANYI

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

W.P. SELF

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "✓" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "✓" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

(For diversity cases only)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "✓" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "✓" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Rags <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl./Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commercial/ICC Rates/etc. <input type="checkbox"/> 480 Deportation <input type="checkbox"/> 470 Racketeer influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY) ASSULTED WITH WEAPON BY CORRECTIONAL OFFICER, WHOM ARE TO ENSURE MY SAFETY AND WELL BEING. AND THUS VIOLATION OF MY EIGHT AMENDMENT RIGHT. CRUEL AND UNUSUAL PUNISHMENT.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$
UNDER F.R.C.P. 23

☒ CHECK YES only if demanded in complaint:JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) IF ANY PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE A "✓" IN ONE BOX ONLY) ☐ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE 9/5/2007

SIGNATURE OF ATTORNEY OF RECORD